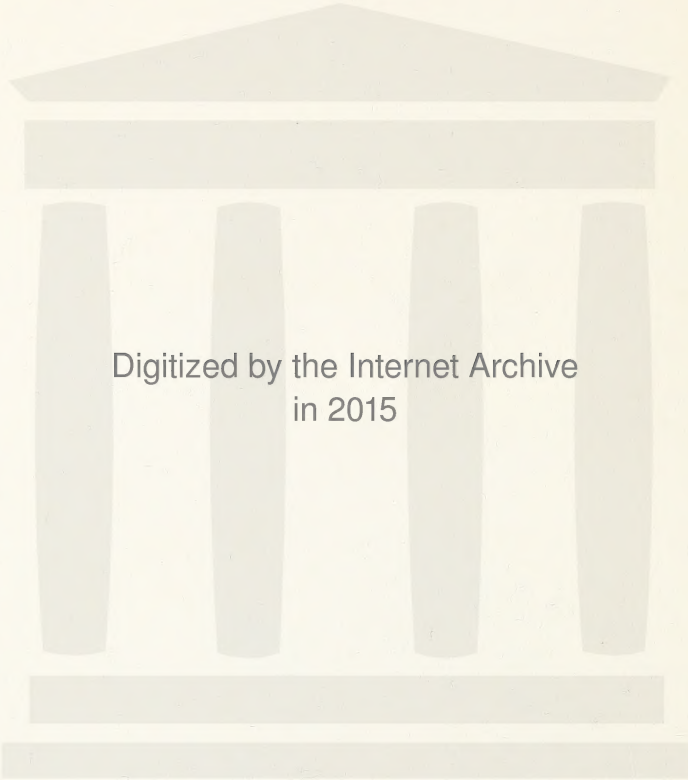


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LAWS FOR ALBERTANS



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3/L **LAW FOR ALBERTANS**

Published by the Alberta Women's Bureau

REVISED JULY, 1974

Introduction

BASIC TO OUR own sense of self and the manner in which we fit into a family, community, province or country, is the need to be aware of the guidelines which govern our interaction with our fellow human beings. From the most primitive to the most sophisticated cultures there can be found prescriptions and proscriptions which define specifically how one must act and react in order to function in maximum harmony in a given society.

As societies become more complex, the "do's and don'ts" are set out in a written form which we have come to know as the law. The laws in our country are structured to allow a maximum amount of individual freedom. One of the first and most important things that responsible citizens must come to terms with is the fact that individual freedom must be limited at that point where one person's freedom begins to violate or infringe upon the freedom of another person.

This publication is offered as a simplified explanation of the way various levels of government function, and the laws for which they are responsible. You are reminded that this booklet is intended to provide a very general introduction to a very complex system. It is not intended as a substitute for professional help when legal problems arise.

The 1974 revision of *Laws for Albertans* was accomplished in conjunction with research assistance provided by the Community Youth Development Branch of the Department of Culture, Youth and Recreation.

Copies of Provincial Statutes are available at a nominal fee from the Queen's Printer, 11510 Kingsway Avenue, Edmonton, Alberta. Additional copies of this booklet are available free of charge from the Alberta Women's Bureau, 424 Legislative Building, Edmonton, Alberta; Telephone: 229-3970.

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Your Province — Your Law

THE PROVINCE of Alberta was established in 1905 by the Alberta Act, an Act of the Parliament of Canada.

Power to change the law and make new laws is shared by the Parliament of Canada and the Alberta Legislature. This power is divided between the two governments by the British North America Act of 1867. Generally speaking, neither government can make laws concerning matters within the jurisdiction of the other.

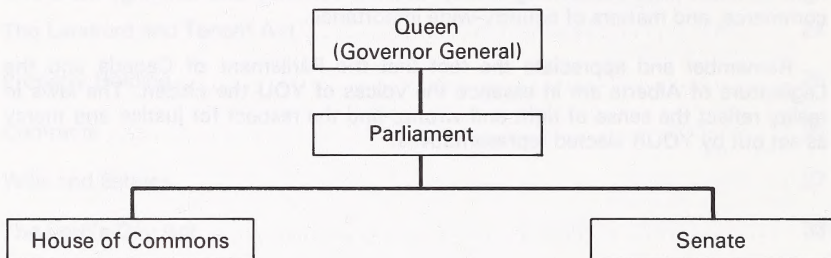
The province has the right to legislate on matters of a local nature, such as property and civil rights, municipal government, and marriage. Parliament has the right to make laws concerning crime, divorce, currency and banking, trade and commerce, and matters of country-wide importance.

Remember and appreciate the fact that the Parliament of Canada and the Legislature of Alberta are in essence the voices of YOU the citizen. The laws in reality reflect the sense of right and wrong, and the respect for justice and mercy as set out by YOUR elected representatives.

Levels of Government

FEDERAL GOVERNMENT

THE OFFICIAL representative of the Queen (sometimes known as the Crown) is the Governor General. He is appointed by the Queen, on the advice of the Canadian Prime Minister, for a term of five to seven years. The Governor General has little actual power; tradition dictates that he follow the advice of the Cabinet. Orders by the Governor General in Council are in reality decisions formally reached by the Cabinet. "Council", as used above, refers to the Privy Council which is made up of all living members of Cabinets past and present, and other distinguished persons. The present day Cabinet usually makes the decision and then speaks on behalf of other members of the Privy Council.



The House of Commons is made up of elected members who represent the public. It decides on legislation, acts of Parliament, authorizes expenditures, and levies taxes. The political party with the majority of members in the House of Commons is called the Government. The Opposition, or minority, has the job of questioning the Government, bringing out different ideas, and generally keeping the Government on its toes.

Members of the Senate are appointed by the Governor General in Council. To qualify for the appointment they must have property worth \$4,000.00; they must be over thirty and under seventy-six years of age. The Senate originates bills and reviews bills coming from the House of Commons.

The Executive Council is made up of the Prime Minister and his Cabinet. The body formulates Government policies. Each Minister in the Cabinet is usually responsible for one or more government departments, and represents these departments in the House of Commons. If a Cabinet Minister does not head a department he is called a "Minister Without Portfolio".

PASSING OF FEDERAL LEGISLATION

Before a Federal bill becomes law it must go through three readings in the House of Commons, and be approved by the Senate and signed by the Governor General.

The first reading of a bill is in fact only an announcement, and the bill is made available to the Members of Parliament for study. At the time of second reading the bill is debated in the House of Commons and then put to a vote. If the bill passes second reading it goes to committee for study in detail and for any

necessary revisions. At the third reading the bill may either be passed, defeated, sent to committee for further revision, or deferred to a later date.

FEDERAL ELECTIONS

The election date is fixed by the Governor General In Council. The Governor General then sends an order for the Chief Electoral Officer to proceed. Writs of election are then issued to the Returning Officers. The Returning Officer makes all arrangements for the election in his area and then posts notices of the election, indicating

- (1) final date for nomination of candidates,
- (2) the date of balloting.

Enumeration of electors begins forty-nine days before the election. Two enumerators (one representing each of the two leading political parties) make a list of all voters. This list is publicly posted for voter inspection. Any errors or omissions are reported to and corrected before a revising officer (a judge or his appointee).

On election day, each poll is supervised by a Deputy Returning Officer. Votes are counted by the Deputy Returning Officer. Ballots and lists are sent to the Returning Officers under lock and key.

VOTING IN FEDERAL ELECTIONS

You are eligible to vote in a Federal election if you are a Canadian citizen who has attained the age of eighteen years on or before polling day.

If you are a British subject who was qualified as an elector on June 25, 1968, and have been ordinarily resident in Canada since that day, you are qualified to vote until 1975.

Certain people are not permitted to vote, for example:

- (1) the Chief Electoral Officer and his assistant,
- (2) the Returning Officers,
- (3) judges appointed by the Governor General in Council,
- (4) prison inmates,
- (5) those committed to an institution because of mental illness,
- (6) those disqualified from voting because of corrupt or illegal practices.

PROVINCIAL GOVERNMENT

In the Provincial Government the Lieutenant Governor is the official representative of the Queen. He is appointed for a five-year term by the Governor General in Council. The Lieutenant Governor acts on the advice of the Provincial Executive Council. The Premier is the head of the Executive Council, and the members are those Members of the Legislative Assembly whom he chooses to act as his Cabinet Ministers.

The operation of a Provincial Legislature is somewhat similar to that of the Federal Parliament. There is however, only one house. At present in Alberta the Legislative Assembly consists of seventy-five members, each one representing an Alberta constituency. The Provincial Legislature has jurisdiction over certain matters such as education, property and civil rights, certain courts, prisons, hospitals, and highways.

For ease of local administration, the rural area of the province is divided into counties, municipal districts, and improvement districts. Urban areas include cities, towns, villages and summer villages.

VOTING IN PROVINCIAL ELECTIONS

To be eligible to vote in a Provincial election, a person must:

- (1) be a Canadian citizen or a British subject on the day the writ was issued,
- (2) be at least eighteen years old on the polling day,
- (3) have lived in Alberta for at least twelve months prior to the day the writ was issued,
- (4) and be a resident in the electoral division and polling subdivision in which he/she will vote.

MUNICIPAL ELECTIONS

Those eligible to vote in municipal elections are:

- (1) Canadian citizens or British subjects of the full age of eighteen years (on or before polling day) who have resided in the municipality for twelve months preceding the date of the election, or
- (2) those whose names appear on the assessment roll in respect to having land or a business liable to taxation.

The above are also eligible to vote on by-laws. (Laws created by a Municipal Council in a city or town are referred to as municipal laws and may be found in the by-laws of the city or town.)

To be elected mayor or a member of council, a person must be eligible to vote in the election and be able to speak, read and write English.

Courts

THE JUDICIARY

THE CANADIAN PARLIAMENT has jurisdiction over criminal law, which involves such acts as murder, arson and theft. Civil law is determined by each province and deals with property and civil rights, e.g., traffic violations. Bylaws are passed by municipalities and are of a local nature, e.g., jaywalking. The laws are made and amended by the governing bodies, but are administered by the courts. Judges of federal courts and the superior courts of the provinces are appointed, for life, by the Governor General in Council; they are responsible to the Crown (not to Parliament). Besides being responsible for the administration of justice, the judiciary must interpret and advise the Governor General or the Lieutenant Governor in Council on matters of the Constitution; in case of a dispute, the court makes the final decision.

Federal courts include the Supreme Court of Canada, the Federal or Exchequer Court, and other minor courts. Provincial courts include the Supreme Court of Alberta, District Courts and Provincial Courts.

JURY DUTY

In Alberta, juries consist of six people in civil cases, and twelve people in criminal cases. Juries are seldom used in civil cases. To be eligible for jury duty, a person must be at least eighteen years of age and a Canadian citizen or a natural born British subject.

Certain categories of people, such as firemen, policemen, doctors, clergymen, nurses, members of the armed forces, and many others, are exempt from jury service.

SURROGATE COURTS

Surrogate Courts have jurisdiction over the administration of estates and guardianship of infants.

SMALL CLAIMS COURT

The Small Claims Act provides a means by which a person can claim a small debt owed to him. The Act gives the Small Claims Court jurisdiction over torts, debts of up to \$500.00, and damages up to \$200.00. There are provisions under this Act for tenants to collect damage deposits from their landlords, and for landlords to collect outstanding rent.

A small deposit of \$4.00 is required when a claim is filed.

LEGAL AID SOCIETY OF ALBERTA

The Legal Aid Society has established a Lawyer Referral Service in Edmonton and Calgary. The system works thus:

- (1) A person who requires the services of a lawyer and is able to afford one, contacts the Legal Aid Office.

- (2) The caller will be asked to identify the kind of problem he or she has, i.e., wills, traffic offences, landlord/tenant disputes, etc.
- (3) The caller is given the names, addresses and telephone numbers of three local lawyers who have experience and expertise in that particular field.
- (4) The caller is asked to choose one of the lawyers and make an appointment.
- (5) The caller should advise the lawyer that he has been referred by the Lawyer Referral Service.
- (6) The caller is given a one-half hour consultation for a fee not exceeding \$10.00. If additional services are necessary, the fee is arranged between the caller and the lawyer.

Legal Aid is available in Alberta to persons who are unable to hire a lawyer. Eligibility for Legal Aid is dependent upon such circumstances as income, cash on hand, assets, ability to borrow, family responsibilities, etc.

Criminal Legal Aid may be extended to persons in relation to:

- (1) criminal prosecutions of indictable offences,
- (2) prosecutions of indictable offences under the Narcotic Control Act and the Food and Drug Act,
- (3) prosecutions under the Juvenile Delinquents Act,
- (4) applications for bail,
- (5) appeals.

Civil Legal Aid may be extended to persons in relation to:

- (1) commencing legal proceedings,
- (2) defending legal proceedings,
- (3) being a party to legal proceedings.

Marriage and the Family

REGULATIONS GOVERNING MARRIAGE

MARRIAGE LICENSING and regulations are determined by each province. In Alberta, a person may marry if he meets certain requirements of age, understanding and status.

AGE

A person who is eighteen years of age or older may marry, provided he meets the other requirements. If a person is sixteen or seventeen years of age, the consent of both parents (if living), or a Court order dispensing with parental consent, is required. (There are exceptions if the parents are separated or divorced or if the person wishing to marry is a ward of the Crown.) No person under the age of sixteen may marry, unless she is pregnant or the mother of a living child.

MENTAL CAPACITY

Both parties must understand what the marriage contract means, and both must fully consent to the marriage.

INELIGIBLE

If a person is already married, he may not marry. A person may not marry someone who is closely related through blood or marriage, i.e., sister/brother, mother/father, daughter/son, etc.

LICENSE

Marriage licenses are issued by the Vital Statistics Division of the Department of Health and Social Development. Licenses are valid for three months after the issuing date. Divorced persons are required to produce papers regarding the final decree when applying for a marriage license.

BLOOD TESTS

Each applicant must have a blood test (unless one is over sixty years of age) within fourteen days of applying for the marriage license. It is not necessary to wait for the results of the blood test.

THE CEREMONY

A clergyman, justice of the peace or a marriage commissioner may perform the marriage only after receiving a valid license.

COMMON-LAW RELATIONSHIPS

Common-law relationships have no legal sanction in Alberta. Since they are not legally performed and registered marriages, they therefore require no legal action to dissolve them. If the relationship should break up, the man and woman can take with them only what is legally his or hers. If children are born, they are illegitimate. Children from common-law unions may legally bear the true father's name by a joint request and by the common-law father's signing an "Acknowledgement of Paternity". This may be completed and witnessed at the Vital Statistics Division of the Department of Health and Social Development. A child born into a common-law relationship can be legitimized by the marriage of the parents. If one of the partners in a common-law union should die, the other has no inheritance rights unless he/she is named in a will.

THE DOWER ACT

Dower rights are those rights given by the Dower Act to the spouse of a married person in respect of the homestead and personal property of the married person.

The homestead is the parcel of land on which a dwelling occupied by the owner as a residence is situated. In a city, town or village, it may consist of not more than four adjoining lots; outside of a city, town or village, the homestead may consist of not more than a quarter section of land.

Essentially, the Dower Act prohibits a married person from selling, giving, or willing away the homestead without the consent of his or her spouse. An order by a judge may be obtained dispensing with the consent of the spouse to the disposition of the homestead by a married person when:

- (1) the married person and the spouse are living apart;
- (2) the whereabouts of the spouse is unknown;
- (3) the spouse is mentally incompetent or of unsound mind;
- (4) the married person has two or more homesteads;
- (5) the spouse has not since the marriage lived in the province.

A judge may by order dispense with the consent of the spouse if in the opinion of the judge it appears fair and reasonable under the circumstances to do so.

If a married person disposes of the homestead without the spouse's consent or an order by a judge dispensing with the spouse's consent, the married person is liable to the spouse for half the value or half the selling price of the property, whichever is greater.

In the event of death of the married person, the spouse is entitled to the use of the homestead for the remainder of his or her life.

RIGHT OF WIFE TO PLEDGE HUSBAND'S CREDIT

If a wife is living with her husband she has an implied power to pledge (promise) his credit for things that are necessary for herself or the household. The amount that can be pledged varies with the couple's living standard.

The right to pledge credit exists unless the husband can show that the wife does not have his permission. He may do this by showing that:

- (1) he has told tradespeople not to give her credit,
- (2) he has forbidden her to pledge his credit, or
- (3) she is given a substantial allowance on the understanding that she will not pledge his credit.

If a wife has been deserted by her husband or if she has had to leave him for a good reason (such as cruelty), she becomes what is known as an "agent of

necessity". This means she can pledge his credit for necessities unless he is giving her an allowance. The husband cannot end this by forbidding her to pledge his credit or by telling tradespeople not to give her credit. Credit may be terminated by misconduct on the wife's part.

If a wife has left her husband without a good reason, she is not allowed to pledge her husband's credit.

FAMILY RELIEF ACT

It is possible that a deceased person's family may not be adequately provided for in the will or under the Intestate Succession Act (if there is no will). In these cases, courts have the power to see that adequate provision for maintenance and support is made from the deceased's estate.

Dependents include:

- (1) the widow,
- (2) children under eighteen,
- (3) children over eighteen who are unable to support themselves because of mental or physical disability.

PRESUMPTION OF DEATH

An order may be obtained that presumes a spouse to be dead if:

- (1) the spouse has been continually absent for seven years;
- (2) no evidence can be found showing that he or she is still alive.

This order allows the remaining spouse to get a marriage license and remarry. It does not dissolve the first marriage!

If it can be proven that the person who was thought to be dead was in actuality alive at the time of the second marriage, then the second marriage is void.

The person who has remarried is protected from a charge of bigamy. The Legitimacy Act protects the children of the second marriage. Even though the second marriage turns out to be invalid and is annulled, the children are still considered to be legitimate.

DIVORCE

Divorce actions are conducted in the Supreme Court of Alberta according to the Divorce Act, which is a Federal Act applicable to all provinces of Canada. Prior to the 1968 Federal Act the only ground on which a divorce could be based was that of adultery; however, under the new Act the following grounds were added:

- (1) sodomy, bestiality or rape;
- (2) form of marriage with another person;

- (3) physical or mental cruelty of such a kind as to render intolerable the continued cohabitation of the spouses.

In addition to the above, an action for divorce may be presented to the Court by the husband or the wife where they are living separate and apart, on the ground that there has been a permanent breakdown of their marriage by reason of one or more of the following circumstances:

- (1) the Respondent has been imprisoned for a period of not less than three years during the five year period immediately preceding the presentation of the Petition for Divorce, or has been imprisoned for a period of not less than two years immediately preceding the presentation of the Petition, for an offence for which the sentence is for a term of ten years or more;
- (2) the Respondent has, for a period of not less than three years immediately preceding the presentation of the Petition, been grossly addicted to alcohol or a narcotic, and there is no reasonable expectation of the Respondent's rehabilitation within a reasonable foreseeable period;
- (3) the marriage has not been consummated and the Respondent, for a period of not less than one year, has been unable by reason of illness or disability to consummate the marriage or has refused to consummate it;
- (4) the Petitioner, for a period of not less than three years immediately preceding the presentation of the Petition, has had no knowledge of or information as to the whereabouts of the Respondent and, throughout that period, has been unable to locate the Respondent;
- (5) the spouses have been living separate and apart for other reasons for a period of not less than three years or by reason of the Petitioner's desertion of the Respondent for a period of not less than five years immediately preceding the presentation of the Petition.

Where marriage breakdown is listed as grounds for divorce, the Court must be satisfied that no possibility exists for reconciliation of the husband and wife. Upon being satisfied that it is a proper case for divorce the Court grants a Decree Nisi. At this time the Court also decides on such matters as custody of the children, and alimony and maintenance. There is then a waiting period of three months, after which, if no reason is shown why it should not, the Court grants a Decree Absolute. This waiting period may be abridged by the Court if the Court is of the opinion that because of special circumstances it would be in the public interest to do so and if both parties agree and undertake that no appeal will be taken. It is only after the appeal period has expired that the parties are free to marry again.

The 1968 Divorce Act provides that the person who commences the action for divorce must be domiciled in Canada and the action must be commenced in the province where one of the parties has been ordinarily resident for a period of one year immediately preceding the presentation of the Petition for Divorce and has actually resided there for at least ten months of that period.

There is no provision in the Divorce Act for the Court hearing the Petition for Divorce to deal with the partition of property. Generally, in the absence of agreement between the parties, it is necessary to undertake a separate action.

THE ALIMONY ORDERS ENFORCEMENT ACT

This Act provides a means for enforcement of alimony and maintenance orders. The person against whom the order is made may be called before a judge and examined as to his means and ability to comply with the order.

If the person:

- (1) fails to appear for the examination,
- (2) fails to give satisfactory answers to the questions asked,
- (3) has disposed of any property with the intent of avoiding compliance with the order, or
- (4) has refused to comply with the order when he has sufficient means or ability to do so,

he can be imprisoned for a period of up to one year.

THE RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS ACT

In most cases where an alimony or maintenance order is made, both the husband and wife reside in Alberta. There are cases where the husband has left the province and is therefore outside the jurisdiction of the Alberta courts. Even though the wife has obtained an alimony or maintenance order in Alberta, it is of no effect in the province or country where the husband resides. It is therefore necessary for the wife to take proceedings for an order against him in the province or country where he resides. The same is true where the wife is in another province and the husband has come to Alberta.

The Reciprocal Enforcement of Maintenance Orders Act is designed to meet this problem. Under this Act, arrangements are made with other provinces and countries (called reciprocating states) whereby alimony and maintenance orders made by Alberta courts may be registered with the courts of the reciprocating states. In return, the orders of the courts of reciprocating states can be registered in the Alberta courts. The registered order can then be enforced as if it were an order of the court where it is registered.

FAMILY COURT

The Family Court of Alberta was created by a Provincial Statute to deal with social-legal problems arising within the family. The aim of the court is to preserve the original family unit whenever possible, or to create as wholesome a family atmosphere as possible in what remains of the original family unit. Courts are located in major centers (Edmonton, Calgary, Lethbridge, Red Deer), but there are also circuit courts in centers all over the province. The Family Court tries to make itself as available as possible to those who are in need of its services. The court provides a counselling service to families with difficulties; if no mutual agreement can be reached, rulings are made by the court of law.

The Family Court has jurisdiction over both criminal and civil matters, which include:

Non-support	Criminal Code Domestic Relations Act
Family assault	Criminal Code
Threats or fear of personal injury	Criminal Code
Interdiction	Liquor Control Act
Maintenance Enforcement	Family Court Act Reciprocal Enforcement of Maintenance Orders Act
Custody/access	Family Court Act
Committal of family member	Mental Health Act
Charges against adults under	School Act Child Welfare Act

To find out where the nearest Family Court is, look in your telephone book under Family Court or Juvenile and Family Courts, or contact the Department of Health and Social Development (Government of Alberta).

CHILD ADOPTION

The Department of Health and Social Development tries to place all children who are permanent wards of the Crown, into adoptive homes. An adult person, whether single or married, may adopt a child. Adoption procedures are started by an application to the Director of Child Welfare, who in turn presents all adoption petitions to the Court. When they have decided that the adoptive parents are fit and proper persons and will provide a good home for the child, judges of the District Court will issue an Adoption Order. This order gives adoptive parents and children the same rights and obligations that parents and their biological children have.

THE CHILD WELFARE ACT

The Child Welfare Act provides for the protection of unmarried persons under eighteen years of age whose well-being (physical, educational, social or moral) is endangered because of the failure, unfitness or inability of their parents or guardians.

In this province, the Department of Health and Social Development administers Child Welfare services. It has established a registry for the purpose of recording reports of abandonment, desertion and physical ill-treatment of children. Anyone suspecting child abuse should report it to their Regional Health and Social Development Office, or by dialing 0 and asking for the toll free Zenith 22024. Edmonton residents may telephone 424-3106. IT IS NOW AN OFFENCE NOT TO REPORT THE ILL-TREATMENT OF CHILDREN. Conviction may result in a fine of

up to \$500.00 or a jail sentence of up to six months (if the fine is not paid), or a combination of both a fine and imprisonment.

When a Child Welfare worker finds a child to be neglected, the matter is thoroughly investigated and a report is given to a Juvenile Court judge. The judge may return the child to his parents, adjourn the case under the supervision of a Child Welfare worker, or make the child a temporary ward of the Crown. If a child remains a temporary ward, and it is not possible for the Child Welfare worker to help the parents provide a suitable home, or if it is felt that the parents will never be able to care for the child properly, then a judge in a District Court will consider an application for permanent wardship.

If a parent or guardian is unable to look after a child because of illness or other misfortune, then he/she can enter into an agreement with the Director of Child Welfare to place the child in the custody or under the supervision of the Director for a temporary period of time so that adequate provision can be made for the care of the child.

ILLEGITIMACY

A child is considered to be illegitimate if he is born out of wedlock. If the parents of a child born out of wedlock eventually get married, the child is considered to be legitimate from birth.

The father of a child born out of wedlock may be held responsible for the care (medical and other) of the mother for three months before the birth, and for as long as necessary after the birth of the child. He may also be required to pay a periodic sum towards the maintenance and education of the child until the child reaches sixteen years of age, or eighteen years if attending school, or if the child is mentally or physically incapable of earning his or her own living.

The mother or guardian of a child born out of wedlock, or the Director of Maintenance and Recovery (Department of Health and Social Development), may lay a complaint against the man alleged to be the father within twenty-four months of the child's birth. Upon presentation of sufficient evidence, a paternity order will be issued. The amount to be paid by the father is set out in this order.

THE AGE OF MAJORITY ACT

The age of majority is eighteen. This means that anyone eighteen or over, subject to other qualification restrictions, may vote in federal, provincial and municipal elections; mortgage or lease property; marry; and serve on a jury. In other words, being eighteen means that a person has all the rights and responsibilities of an adult.

Females are considered to be minors until they are eighteen, males until they are sixteen. Minors have almost no legal rights; they are under their parents' care, but are protected against abuses by their parents. Minors are usually tried in juvenile courts, but can be tried in "adult" court if the offence is indictable and is very serious.

THE JUVENILE DELINQUENTS ACT

Under the Juvenile Delinquents Act (Federal), young lawbreakers may be treated as delinquents in need of help, guidance and proper supervision. In

Alberta, a juvenile delinquent is a boy under sixteen years of age or a girl under eighteen years of age who violates any provision of the Criminal Code or any other federal or provincial statute, or who is guilty of sexual immorality or any similar form of vice.

A child who is or appears to be under twelve years of age may not be charged unless the permission of a judge is obtained. If a juvenile is charged with an offence, his parents are notified of the charge. The offender must be brought before a judge as soon as possible. The trial may be held without publicity and in a manner that is more informal than the usual court procedure. The Child Welfare Act provides that any child judged to be a juvenile delinquent and in need of care, is committed to the care and custody of the Director of Child Welfare as a temporary ward of the Crown.

It is an offence for any person to cause, aid, or contribute to the delinquency of a juvenile.

Health and Social Development

ALBERTA HEALTH CARE INSURANCE PLAN

ALL RESIDENTS of Alberta are covered by Alberta Health Care Insurance except those who complete the appropriate "opting-out" forms. If you opt out, you are responsible for all your medical and hospital bills. It would be very wise, therefore, to examine the cost of both medical and hospital care before electing to opt out.

To qualify as a dependent under a parent's contract a person must be:

- (1) single, under twenty-one, and completely dependent on the parent;
- (2) single, over twenty-one, and financially dependent because of infirmity, either mental or physical;
- (3) single, under twenty-five, and a full-time student at an accredited educational institution.

Subsidized rates are available for residents on limited yearly incomes. Information regarding subsidy or any other aspect of Alberta Health Care Insurance can be obtained by contacting the Alberta Health Care Insurance Commission at:

Box 1360
Edmonton, Alberta
T5J 2N3

OR

J. J. Bowlen Building
620 - 7th Avenue S.W.
Calgary, Alberta
T2P 0Y8

Senior citizens are exempt from Alberta Health Care Insurance premiums.

THE MENTAL HEALTH ACT

If a therapist or physician examines a person and thinks that the person is suffering from a mental disorder and is in a condition that presents a danger to himself or others, he may (within seventy-two hours of the examination) issue a Conveyancy and Examination Order. This order gives the authority to have a person taken to an approved hospital within seventy-two hours of being issued. The order also gives authority for one or more therapists or physicians to examine the person and to detain him for twenty-four hours. Orders can also be issued by a judge, or if it is thought to be necessary, a police officer can convey a person to a hospital. Unless two admission certificates are issued in the twenty-four hours, the person must be released. The admission certificate is issued either by a therapist and a physician or two physicians, if they are of the opinion that it is necessary. This certificate gives the authority to detain the person as a formal patient for up to one month. Renewal certificates are needed if the patient is to be detained for longer.

CERTIFICATE OF INCAPACITY

Certificates of incapacity can be issued if the physicians have determined that the patient is incapable of managing his own affairs. The certificate is valid until it is cancelled by a review panel or by a Supreme Court judge.

Patients have the following rights:

- (1) to know why they are detained;
- (2) to know how long they are to be detained;
- (3) to know the name and address of the review board;
- (4) the right to appeal certificates and renewals;
- (5) the right to a suitable interpreter if there are language difficulties;
- (6) written communication to or from a patient may not be opened or withheld;
- (7) a patient may have visitors during visiting hours.

SEX CHANGES

The Vital Statistics Act was amended in 1973 to cover sex changes and their subsequent registration.

When a person has had a sex change he can apply to have his registration changed. This would enable him to obtain birth and marriage certificates with the new sex on them. To obtain the revised registration, the person involved must furnish proof of identification and medical certificates from two qualified medical doctors confirming the change.

THE HUMAN TISSUE GIFT ACT—1973

Any person who is eighteen years of age or older, is mentally competent and is making a free and knowledgeable decision, may consent (in writing) to having a specified tissue removed from his body and transplanted into another living person. This consent is void if the tissue is not removed for the purpose and at the time originally indicated in writing.

Any person who is eighteen years of age or older may consent to the use of his body for medical or scientific purposes after his death. This consent may be in writing or spoken in the presence of two witnesses during the last illness.

The closest living adult relative may consent to a person's body being used for medical or scientific purposes unless he believes it may have been against the wishes of the deceased.

The fact of a donor's death shall be established by two physicians who have nothing to do with the person receiving the tissue and/or with the transplant operation.

THE VENEREAL DISEASES PREVENTION ACT

This Act states that anyone who either knows he is or thinks he may be infected with venereal disease should consult a physician or go to a provincial clinic. If a person is infected, he must take the treatment ordered. A physician or other person in an official capacity to know of venereal disease must report it to the Director of Social Hygiene, Department of Health and Social Development. Treatment for venereal disease will be paid for by the provincial government.

Anyone refusing to take the treatment can be detained until he/she is cured, and can be fined up to \$200 or imprisoned for up to ninety days.

THE EMERGENCY MEDICAL AID ACT

A doctor, nurse or other person who renders first aid to a person who is ill, injured or unconscious at the scene of an accident, cannot be held liable for damages, for injuries to, or the death of the person, unless the injury or death was caused by gross neglect.

WHERE TO FIND HELP

In trying to get help with a problem or in registering a complaint, a person is faced with a multitude of federal, provincial and municipal departments and agencies. Some of the larger centers have Advice, Information and Referral (A.I.D.) Centers. The staff there will give you advice on who to contact and where. They also distribute directories which list the agencies in the area. If there is no A.I.D. Center in your area, try and find out if there is a Preventive Social Services office. Most municipalities have a Preventive Social Services office or employee.

A.I.D. Centers can be found in the following centers:

Edmonton

Calgary

Medicine Hat

Grande Prairie

Lloydminster

Lethbridge (called 'Information Lethbridge')

High Prairie (called 'Community Services and Information')

If you want information on hitchhiking laws, arrest and bail procedures, and other laws, try to obtain *The Bluebook For Travellers*, put out by Student Legal Services, Law Center, The University of Alberta, Edmonton, Alberta.

PREVENTIVE SOCIAL SERVICES

In Alberta the municipal and provincial governments are cooperating in bringing together a program designed to prevent social problems and to enrich the quality of life. Some of the programs offered are: volunteer bureaus, day care centers, help with budgeting, child care and home management, family planning clinics, services for senior citizens, and preventive counselling for families, parents and young people. For information on what your municipality offers, contact your local A.I.D. Center, or telephone the local Health and Welfare Department.

Human Rights

IN ALBERTA, two acts that protect human rights are the Alberta Bill of Rights and the Individual's Rights Protection Act.

THE ALBERTA BILL OF RIGHTS

The Alberta Bill of Rights states that any individual has the right to personal liberty, security and the enjoyment of property. Individuals have the right not to be deprived of these except through the proper legal process. Each individual is entitled to the protection of the law and is equal with the others before the law. The freedoms of religion, speech, meetings and the freedom of the press, have been reaffirmed. These rights and freedoms are to exist without discrimination because of race, national origin, colour, religion or sex.

THE INDIVIDUAL'S RIGHTS PROTECTION ACT

The Individual's Rights Protection Act protects individuals or groups against discrimination and unfair practice. A short summary follows.

CONDUCT

No one shall publish or display literature or symbols that indicate discrimination against a person or group of persons because of race, religion, colour, sex, age, ancestry or place of origin. This does not mean that facilities usually used by one sex, such as washrooms, cannot be identified.

ACCOMMODATION

Accommodation or services that are usually open to the public shall not be denied to anyone because of race, religion, colour, sex, ancestry, or place of origin.

TENANCY

No one shall refuse any person the right to occupy, as a tenant, a commercial or self-contained dwelling unit that is advertised or otherwise represented as being available for occupancy by a tenant, because of race, religion, colour, sex, ancestry or place of origin. Nor shall anyone be discriminated against in regard to the terms or conditions of the occupancy because of race, religion, colour, sex, ancestry or place of origin.

PAY

Employers shall not employ females at a rate of pay which is less than the rate at which male employees are employed for similar or substantially similar work. Work is considered similar if duties performed are basically the same. This law is not broken if the difference in pay is due to a reasonable factor other than sex, and if the difference would normally have existed. An example of this is seniority in the number of years worked.

An employee who has been paid less than the rate of pay to which he is entitled may make a complaint to the Human Rights Commission OR take action against the employer for recovery of the difference in pay.

EMPLOYMENT

No employer shall refuse to employ or refuse to continue to employ any person, or discriminate against any person with regard to employment or any term or condition of employment, because of the person's race, religion, colour, sex, marital status, age, ancestry, or place of origin.

No person shall circulate any form of application for employment or publish any advertisement in connection with employment or make any written or oral inquiry of an applicant which expresses any limitation, specification or preference as to race, religion, colour, sex, age, ancestry, or place of origin. Nor shall applicants be required to furnish information about their race, religion, colour, ancestry, or place of origin.

No trade union, employers' organization or occupational association shall exclude any person from membership, expel or suspend any member, or discriminate against any person because of race, religion, colour, sex, marital status, age, ancestry or place of origin.

PROTECTION

No person shall be evicted, discharged, suspended, expelled, intimidated, coerced, discriminated against, or have penalties imposed because he/she has complained, started, or assisted in the prosecution of a complaint under this Act.

ALBERTA HUMAN RIGHTS COMMISSSION

The Individual's Rights Protection Act established the Alberta Human Rights Commission, which has the job of educating the public and promoting ideas of equality of all people. The Commission has powers of investigation and is responsible for the enforcement of this Act. Decisions that have been made by the Commission can be appealed to the Supreme Court.

Canadian Citizenship Act

A PERSON is a natural born Canadian citizen if born in Canada or on a Canadian ship. The child of a Canadian father is considered to be a natural born citizen, no matter where the child is born, provided that the child's birth is registered with Canadian authorities within two years of birth.

An alien cannot acquire citizenship by marrying a Canadian citizen. The wife of a Canadian citizen may become a citizen only after living in Canada for one year as a landed immigrant, making the proper application, and meeting all citizenship requirements. This does not apply to the husband of a Canadian woman. The husband of a female Canadian citizen must wait five years before he may apply for citizenship.

An adult must apply for citizenship on his own behalf. A child's guardian may make application for citizenship on behalf of the child. A child over fourteen years of age must appear with the adult who is making application for citizenship on the child's behalf. That child must also take the citizenship oath.

To be eligible to become a Canadian citizen, a person must have:

- (1) admittance to Canada for permanent residence (landed immigrant status);
- (2) resided in Canada for five of the eight years immediately preceding the application. Persons living in Canada before obtaining landed immigrant status may count one-half of each year before "landing";
- (3) resided in Canada for twelve of the eighteen months immediately preceding the application;
- (4) attained the age of twenty-one years, or be the spouse of and living with a Canadian citizen in Canada;
- (5) good character and not be under a deportation order;
- (6) an adequate knowledge of English or French unless:
 - (a) over forty at landing and ten years continuous residence in Canada,
 - (b) under forty at landing and twenty years continuous residence in Canada,
 - (c) spouse, widow or widower of a Canadian citizen;
- (7) adequate knowledge of the responsibilities and privileges of a Canadian citizen;
- (8) intent to comply with the Oath of Allegiance;
- (9) intent to live permanently in Canada.

Special Citizenship Courts are located in Edmonton and Calgary. British subjects may file applications with the local Court or the Registrar, who will forward a certificate to the applicant if the application is approved. Aliens must file their applications with a Court.

Use of Names

A PERSON MAY use any name he or she wishes to use as long as it is not done for the purpose of fraud. In order to legally change a name, regulations contained in the Change of Name Act must be carefully followed.

When getting married, a woman is not obliged to take her husband's surname. This practice has been followed almost as though it were required by law, but it is in fact only a matter of cultural and social custom. A woman who is divorced may use her maiden name again without going through the change of name registration; if she has children, they would retain their father's name.

THE CHANGE OF NAME ACT

At birth, a person, if legitimate, inherits the surname of his or her father. Subject to the Change of Name Act, any person may apply to change his given name or his surname, through the Director of Vital Statistics.

An application for a change of name may be made only by a person who is eighteen years of age or older and who is a resident of Alberta. A person may not apply to change the name of a child who is twelve years of age or older without the child's consent.

A married person who applies for a change of surname shall also apply for a like change of the surname of his/her spouse and each of their children. A married person may not apply to change the name of his spouse or their children without the spouse's consent.

A widowed mother who has remarried may apply to change the surname of a child of hers who is also the child of her deceased spouse, but only with the consent of her husband, if living.

A woman whose marriage has been dissolved and who remarries may apply to change the surname of a child of the dissolved marriage of whom she has lawful custody, to the surname of her husband. The consent of her husband, as well as the consent of her former husband, is required.

A person may not apply for a change of surname so as to acquire the surname of another person whom the applicant is not married to but is living with as husband and wife.

The Criminal Injuries Compensation Act

BY THIS ACT the Province has set up a Crimes Compensation Board so that victims of crimes of violence may claim compensation. Claims may be made by:

- (1) anyone injured as a direct result of a crime of violence, or as a direct result of endeavoring to arrest someone, or preserving the peace, or in assisting a peace officer in carrying out his duties with respect to law enforcement;
- (2) the dependents of anyone who was killed as a direct result of any of the circumstances outlined in (1) above.

Normally, the claimant must be a resident of Alberta. The injury or death and how it was caused must have been reported to the police as soon as possible after it happened. The claim for compensation must be registered within one year of the injury or death. The claimant for injuries must be prepared to have a medical examination if the Board requests it.

For full information, write to:

The Crimes Compensation Board
9919 - 105 Street
Edmonton, Alberta T5K 2E8

The Debtors' Assistance Act

IN 1943, THE Debtors' Assistance Act established the Debtors' Assistance Board. The Board provides a counselling service for families with financial problems.

Services provided by the Board include:

- (1) advice on family finance and budgeting;
- (2) information on the effects and consequences of garnishees, seizures or foreclosures;
- (3) help with bringing debts together under the Orderly Payment of Debts Provisions. Under this plan, debtors are helped in working out satisfactory arrangements with creditors;
- (4) advice as to the obligations which should or should not be included in the above consolidation plan;
- (5) information on personal bankruptcy procedures.

The Landlord and Tenant Act

WHEN RENTING an apartment or other accommodation, one is often required to sign a lease. This lease is a contract between the landlord and tenant and contains whatever provisions are agreed upon between them. Among other things, the lease should state the amount of rent, length of the lease, requirements for giving notice, the amount of the damage deposit and its conditions, and specified obligations of the landlord and tenant.

NOTICE

A written notice of termination of lease must be given by the landlord. It should be given on or before the last day of a rental period (usually one month), to be effective on the last day of the next rental period. If planning on moving out, the tenant should also follow the above guidelines for giving notice of termination of lease.

RENT INCREASES

A notice of an increase in rent must be given by the landlord ninety days before the increase is to be effective.

DAMAGE DEPOSITS

The landlord is required to pay interest at the rate of 6% on damage deposits. The landlord must return the damage deposit or an estimate of the damages to the tenant within ten days after the tenant vacates. If there are deductions to be made from the deposit, the landlord must deliver a statement of account and return the final balance, if any, within thirty days after the tenant vacates.

To prevent disputes with the landlord upon vacating the premises, the tenant should make a list of everything that is damaged when he moves in and have the landlord sign it.

ENTRY BY THE LANDLORD

The landlord may not enter a rented premise unless the tenant is given a written notice twenty-four hours before the time of entry. The time of entry should be during daylight hours and should be stated in the notice.

The following circumstances are exceptions:

- (1) The landlord may enter the premises if there is an emergency.
- (2) The landlord may enter to show prospective tenants the premises once a termination of lease notice has been given.
- (3) The landlord may enter if permission is given by the tenant at the time of entry.

IF PROBLEMS ARISE

If you experience problems in a landlord/tenant situation, find out if your city or town has a Landlord and Tenant Advisory Board. They may be able to give you the necessary assistance or guidance.

If you have problems getting your damage deposit back, get advice from the Small Claims Court.

Property Holding

A PIECE OF property may be owned by one or more persons. Where more than one person owns the same property they may own it as joint tenants or as tenants in common.

Joint tenancy is commonly used by married couples in owning their home. Each has an equal interest in the property and it cannot be sold or mortgaged without the consent of both owners. If one of the owners dies, then his share passes on to the other owner when proof of death is filed with the Land Titles Office. The owner of a share of land in a joint tenancy cannot dispose of it by will.

Common tenancy means that the owners have a share in the property. When one of the partners dies, the other partner does not automatically get the other's share. The share is inherited by the deceased's next of kin, or goes to whomever is named in the will.

Contracts

A CONTRACT CAN be made verbally (telling a mechanic to fix your car) or in writing. A good contract leaves nothing in doubt, and contains all relevant information. It should be clear and concise and no clause should be vague. Lines should be drawn through any blank spaces on the written contract so that nothing can be added after the contract has been signed. If one is not in agreement with a point on the contract, a line should be drawn through the unwanted lines and the appropriate words substituted. One should make sure that the other party to the contract initials the change.

For one's own protection, all contracts should be in writing, and one should know what is in the contract, including the fine print, before signing it. Before signing an important contract, a person should have a lawyer review it. It is very important that a person knows what he is signing because he can be taken to court if any of the provisions are not complied with. The breaking of a contract or any of its clauses is known as "breach of contract" and can result in one's being sued in a court of law.

Wills and Estates

MAKING A WILL

A WILL SHOULD be made in contemplation of life. When set up properly it is the key to true enjoyment of your property while you are alive, as it only takes effect upon your death. Property devolves (passes) on death in many ways: joint tenancy, contract (life insurance), deed, gift, Intestate Succession Act, Dower Act and by will. Bear in mind the fact that your will or the Intestate Succession Act will decide how your property will devolve (pass) other than by the aforementioned methods.

WHY HAVE A WILL?

It is wise to have a will, but some people need convincing as to its importance. Without a will there is no personal direction as to disposal of the person's estate after death. Whether possessions are few or many, most people have an idea as to whom they would like to leave them. For example, Mrs. Smith may want her daughter to have her jewelry. Without explicit directions in a will, no one really knows this. Practically speaking, where there is a will, less time and cost is involved. Intelligent planning avoids excess estate taxes and distributes the estate quickly and efficiently to the beneficiaries of your choice.

Alberta's Survivorship Act must also be considered. When two or more persons die in circumstances rendering it uncertain which survived the other, the younger is presumed to have survived the older. If the wife is younger and she is without a will, she has died intestate. For example, if the husband's property all goes to the wife's estate it is added to her separate property and passes to her next of kin. This possibility can be eliminated with a common disaster clause, providing an alternate list of beneficiaries if the spouse does not survive by a certain number of days (usually 30).

WHO CAN MAKE A WILL

Any mentally competent person eighteen years of age or older may make a will. Wills made by persons suffering from delusions affecting the nature, value or ownership of assets, or warping the natural affections, may not be recognized. Either fraud or undue influence may also render a will invalid.

A will may be revoked at any time, either by revoking the old will, making a new one, or by deliberately destroying the old one. A person's will is normally revoked upon marriage, unless the will specifically states that it is being made in contemplation of that particular marriage. It may also lose its effectiveness, wholly or partially, by the death of persons named as beneficiaries or by the person during his lifetime disposing of property which he has left in his will.

Wills are changed either by making a complete new will or making a codicil (a document in the form of a will amending the original will).

Generally speaking, once made, a will should be reviewed every five years, or sooner if circumstances change.

WHO TO SEE ABOUT DRAWING UP YOUR WILL

The person best qualified to draw up your will is your lawyer. The lawyer will charge you for this service at rates which vary throughout the province from \$25.00 for a simple will, including execution.

Your lawyer, banker or executor will keep a copy of your will in his possession. It is important to advise immediate members of your family where the original will is located (preferably a safety deposit box or other fireproof storage). One hidden under the mattress may not turn up for 50 years, in which event your estate will have been divided by the Intestate Succession Act, with no regard to your recorded wishes.

It is wise to keep a copy with your important papers, and to list on each copy where the original will is being held.

If moving to another province or country, check to see if the laws regarding wills are the same. For example, a holograph will is recognized in Alberta but not in all Canadian Provinces.

WHAT ARE THE TYPES OF WILLS?

The ordinary form of will (called a solemn will) is signed at the end by the testator (maker) in the presence of two witnesses who must sign in the presence of the testator and each other. The witnesses must not be persons or spouses of persons who will receive anything under the terms of the will, and preferably should be younger and easily located.

Costly mistakes can be avoided if the will is executed in the lawyer's office. Beware of printed forms. Avoid amateur effort.

Another form of will recognized by Alberta courts is the holograph will. This is a will that is completely in the handwriting of the testator and needs no witnesses. Many other courts do not recognize a holograph will, so the person must be governed by the laws of the jurisdiction in which the estate is situated. A holograph will is **NOT RECOMMENDED** except as a temporary measure.

Great care must be taken in wording a will to ensure that it has the legal effect intended, because when the time comes to give effect to it, the maker is not available to explain exactly what was meant. Remember, the will is going to dispose of property acquired during the maker's entire lifetime.

Because of the many legal problems involved, a will prepared by a person unfamiliar with the details of the laws relating to wills and the transmission of property, may be ineffective to dispose of the testator's property. For example, a provision that is of uncertain meaning or that may result in property being tied up for an indefinite period, can be invalid. In consequence a will prepared by a person without full knowledge of the relevant laws is **DEFINITELY NOT RECOMMENDED**. A very high proportion of "home made" wills cause unnecessary delay, uncertainty and expense.

HOW YOUR WILL DISPOSES OF YOUR PROPERTY

There are several ways to give assets under a will, and Alberta law applies certain technical rules to the methods you choose.

The important consideration is to remember the alternatives available and the methods you have used in your will so that subsequent actions will not change the meaning or effect of the will.

For example—

(1) Father 'A' wants to leave his land to son William—the only child interested

in farming. In his will, he directs his executors to rent the land, pay the net income to his wife for her lifetime and on her death to transfer the land to William. After the will is made, the land is expropriated for a factory site and at Father 'A's' death there is no land, only a house in the city and cash in the bank.

Without a new will to meet the changing conditions William gets no interest in the former farmlands and the widow may get nothing from the income direction unless the residuary clause benefits William and the widow.

- (2) My will provides, "I leave my grand piano to my daughter Katherine." This particular wording means that if I own a grand piano at death my daughter Katherine will receive the grand piano. If I do not own a grand piano at death Katherine receives nothing no matter how talented she may be.

On the other hand, if my will reads, "I leave a grand piano to my daughter Katherine," then even if I did not own one at the date of my death, my executors would be obliged to buy a grand piano at the estate's expense and give it to my daughter Katherine.

- (3) I wish my son to attend University or Agricultural College and to provide an incentive I state in my will, "If at my death or within blank years thereafter my son John attends a University in Alberta or an Alberta Agricultural College then I leave the sum of \$10,000.00 in trust to my executors to pay his tuition, board, lodging, books, etc., etc., and upon graduation to pay the balance remaining to him for his own use absolutely (or to someone else if he dies or fails to graduate)." This is a valid and enforceable bequest.

If, however, I foolishly refuse to take legal advice and draw my own will which merely says "I leave the sum of \$10,000.00 to my son John trusting that he will use this money to obtain a University degree or finish Agricultural College in Alberta and farm lands which his grandfather homesteaded, etc.," the Court would interpret this type of bequest as an absolute gift of \$10,000.00 to son John with no strings attached, and he would not be obliged to attend University or Agricultural College or graduate therefrom.

As these examples illustrate, technical rules of interpretation are necessary to determine unforeseen circumstances. Your lawyer, aware of these rules, can assist you in the proper wording and alternatives available to provide for the probable changes in your particular circumstances.

OWNERSHIP TRANSFER BY WILL

Transfer by will has certain disadvantages, especially when it is used to transfer the family farm or business on to the next generation. These are:

- (1) No one can predict when transfer by will is to take place. The result is a period of uncertainty regarding the transfer. This could extend to 30 or 40 years.
- (2) A will can be changed by the maker at any time, providing he is still mentally competent, so it is not a definite financial arrangement until made final by death and legal action through the Probate Court.
- (3) Many times the parents making the will need money from the sale of the place to live on in their declining years. The will does not furnish any money

to them. (Certainly the parents can get money from the sale of the place for their declining years, but they must alter the will to match their change of plans).

- (4) The legal cost, and often tax obligations for the estate, will be larger if the will is used to transfer all the property than if the farm is sold to the heirs.

WHAT HAPPENS WHEN A PERSON DIES WITHOUT A WILL?

When a person dies without a will or leaves property that is not disposed of by a will, the Intestate Succession Act provides how the estate is to be distributed. In other words, for those of us without the time and patience to make our own wills, the Provincial Government has made a will for us. Unfortunately this "will", the Intestate Succession Act, cannot take into consideration the needs of each particular family. Thus some unfair situations can result.

According to this Act if a man leaves an estate with a net value of less than \$20,000, the entire estate goes to the widow. Where the net value of the estate exceeds this amount, the widow receives \$20,000 plus interest at 5% per annum until paid, and the remainder is divided:

- (1) if one child, half to the widow and half to the child,
- (2) if more than one child, a third to the widow and two thirds divided equally amongst the children.

If a son or daughter is dead but survived by children, they receive what would have been the parent's share. Where there are no children, the widow receives the entire estate.

When there is no widow or descendants, the estate goes to the deceased's nearest kin who are determined in the following order: parents; brothers and sisters, or if dead, their children; grandparents; aunts and uncles; cousins.

When no heirs survive the deceased person the estate goes to the University Commission under The Ultimate Heir Act.

EXECUTORS AND ADMINISTRATORS

An executor is appointed under a will and has the right to act immediately upon death. An administrator can only act when appointed by the court and this can take months. Delay is usually caused by many factors, such as who will be the administrator, what are the assets of the estate, posting of a bond, etc. An administrator is required where there is no legally enforceable will or the executor in a will is dead, incapable, or refuses to act. Careful thought should be given to selection of an executor for your estate, and the matter should be discussed with the person you intend to appoint as to whether he would care to act as an executor. For example, it would not be wise to appoint an executor much older than you for fear such person would predecease you, with resulting complications. To avoid additional costs of administration, your executor should be located in Alberta.

The services of a trust company or the Public Trustee should be considered, because through their experience in estate planning they can offer advice which could result in substantial tax savings, as well as avoidance of possible administrative problems. The fees payable to the executor or administrator are the

same regardless whether a trust company, the Public Trustee, or an individual is named.

Executors and administrators have three primary duties in handling an estate:

- (1) to gather all assets of the estate,
- (2) to pay all legal debts, taxes and expenses of the estate,
- (3) to pay out the balance of the estate in accordance with the terms of the will, or under provisions of the Intestate Succession Act, as the case may be.

They may enter into possession of the estate's property; may bring legal action against the debtors of the estate; may enforce demands; may give effective receipts and discharges; may pay the testator's debts, and in effect, perform all directions of the will or the Intestate Succession Act. The first step after receiving grant of probate or administration is that of filing income tax and completing succession duty returns, if any.

An executor may resign from his appointment providing he has taken no steps whatsoever in the affairs of the estate. This means providing he has not even made funeral arrangements. The executor does not have to post a bond if he lives in Alberta.

Since an administrator is appointed by the court, he must post a bond equal to twice the value of the estate. There is a priority of persons who may be selected by the court as an administrator. In order of importance they are: husband, wife, father, mother, child, brother, sister, uncle, aunt, nephew, niece, and other next-of-kin. This priority list is strictly adhered to by the courts, and applicants applying for a grant of administration of an estate must fulfill certain conditions if they wish to vary it. Where there is uncertainty as to the person entitled to a grant of administration, or undue delay exists, the court has power to grant administration to the Public Trustee or some other proper person.

THE PUBLIC TRUSTEE

The Public Trustee may, under statute:

- (a) act as guardian of the *estate* of an infant,
- (b) act in the administration of estates,
- (c) act as custodian of property of missing persons, convicts and deceased persons,
- (d) upon order of the court, act as judicial trustee of the estate of a deceased person,
- (e) either alone or jointly with any other person or persons, accept and carry out a trust where he is appointed for that purpose,
- (f) act as a guardian of the estate of an infant made a ward of the Province under the provisions of The Child Welfare Act,
- (g) act in such other capacity and do such other acts as authorized or required to do by Rules of Court, order of a judge or Lt. Governor in Council, or by the Public Trustee Act,

(h) where no person has been appointed, act as guardian or custodian of the estate of an infant, and

(i) act as the committee of the estate of a mentally incompetent person.

He is a barrister and a solicitor with at least ten years standing, responsible to the Department of the Attorney General, Government of Alberta, and has offices in Edmonton and Calgary.

The Public Trustee is entitled to the same costs as are payable to counsel and solicitors, and to administration fees either as agreed upon by adult beneficiaries or as determined by the court upon notice to all beneficiaries concerned.

Many Albertans who have no relatives or principal beneficiaries resident in the province take advantage of the Public Trustee's professional skill and knowledge and appoint him executor of their will.

GUARDIANS

It is important to realize that there are two kinds of guardians. In Alberta we may by will appoint a guardian of the *person* of our minor children (under eighteen years of age). This guardian is the person you have selected, with his or her consent, to act as a substitute parent. Care should be given to seeing that the new environment will be as close to your present home as possible, in religion, discipline, health and education. Grandparents should not be automatically appointed as guardians. They are wonderful people and should be allowed to retain the grandparent relationship with the children. Orphaned children will need their grandparents as well as substitute parents.

The courts will approve the selection, as long as someone selected is not deemed by the court to be an unfit guardian.

Matters relating to the child's separate estate or inheritance, are determined by the trustee named in the parents' will (if any), the Public Trustee, or a guardian of the infant's *estate* appointed by the District Court after posting a bond.

One of the most important reasons for making a will is to appoint guardians for your minor children. Some of the most heart-rending court cases on record are those where a number of relatives apply for guardianship of the person of the orphaned children. It divides the family perhaps forever, upsets the children who have already been through a great deal, and costs the estate money through the court costs involved.

Please note that you can in your will or by deed appoint the same person to be guardian of the person and estate of your minor children. But remember when doing so to consider whether the person you choose is as qualified to handle the child's finances as his emotional needs.

The Lord's Day Act

THIS IS A FEDERAL statute which can be altered by the provinces and in some cases the municipal government, so the following does not necessarily hold true in the center in which you live.

Entering into some contracts on Sunday (twelve o'clock midnight Saturday to twelve o'clock midnight Sunday) is illegal. One may write a cheque on Sunday as long as this is for conclusion of business started during the week; the same holds true for the signing of contracts. To be safe, one should not sign any contract on a Sunday because it is always possible for an unscrupulous business person to try and get out of it.

The Alberta Labor Act

THE ALBERTA Labor Act has provisions for regulating such things as the number of hours worked, minimum wages, holiday pay, and the well-being of employees. The following are a few of the regulations to be found in this Act.

HOURS OF WORK

Hours in excess of eight hours per day or forty-four hours per week constitute overtime. If the above hours are not practical to the employer, hours may be varied each week in a four-week time period provided that there are no more than forty-eight hours in a week, and a shift schedule is posted prior to each four-week period.

SHORT OR COMPRESSED WORK WEEK

An employer must apply for a permit to operate on a compressed work week (longer hours for fewer days). The majority of employees must be in favor of working a shortened week, and the employees' health and safety must not be in danger.

GENERAL HOLIDAY PAY

General holidays are those recognized holidays such as New Year's Day, Good Friday, Easter Sunday, Christmas and Dominion Day. If an employee does not work on a general holiday he must still be paid full wages for it, unless he has been working for less than thirty days or he is absent on a regular work day prior to and immediately after the holiday. If an employee works on a general holiday he must be paid regular wages for that day plus additional time and one-half.

DAY OF REST

An employer must allow his employees twenty-four consecutive hours of rest in each work week.

STATEMENT OF EARNINGS

An employer is required to keep records of his employees' names, ages, addresses, hours of labor, wages paid, deductions, vacation periods and vacation pay. He must furnish the employee with a formal statement of earnings and deductions.

FAILURE TO PAY WAGES

If an employer fails to pay all wages and holiday pay, charges may be laid under this Act. If the employer is found guilty he may be required to pay a fine, all court costs, and all the employee's rightful entitlements.

HOLIDAY PAY

Employees are entitled to two weeks paid vacation after having worked for the employer for one year, or 4% of regular earnings for any time less than a year.

REGULATIONS CONCERNING CHILDREN

(1) Persons under fifteen years of age shall not be employed without the written consent of their parents or guardians AND the approval of the Board of Industrial Relations.

- (2) During normal school hours, no person shall employ or permit to work on his premises, anyone who is required to attend school.
- (3) The Lieutenant Governor in Council may (in spite of No. 1):
- (a) permit the employment of persons under fifteen years of age;
 - (b) prohibit employment of persons fifteen to eighteen years of age in occupations that are likely to be injurious to life, health, education or morals;
 - (c) establish conditions of employment of persons fifteen to eighteen in any specific occupations.
- (4) Nos. 1 and 2 above do not apply to persons under fifteen years of age if:
- (a) they have been excused from school attendance in order to obtain vocational training, or
 - (b) they are enrolled in a work experience program that has been approved by the Minister of Education and the Board of Industrial Relations.
- (5) Persons twelve to fifteen years of age may be employed as delivery boys or girls for small wares of retail stores, or for flyers, newspapers or handbills, or as clerks or messengers in offices or retail stores. Hours of work are limited to two hours on school days and eight hours on days when school is out. Persons under fifteen years of age shall not be employed between 9:00 p.m. and 6:00 a.m. Persons fifteen to eighteen years of age shall not be employed between 12:01 a.m. and 6:00 a.m. unless they are working with and under the supervision of someone over eighteen years of age.

Consumer Affairs

THE MUNICIPAL, Provincial and Federal governments all have a hand in consumer affairs; the difference among them is mainly jurisdictional. The Provincial Consumer Affairs Department licenses trades, businesses and salesmen, runs the Debtors' Assistance Board, and handles complaints, investigations and inquiries. The Federal Consumer and Corporate Affairs Department has jurisdiction over such things as hazardous products, weights and measures, packaging and labeling. It also handles complaints and inquiries. In addition to these departments, there are others that also handle problems in the consumer protection area. One example is the Federal Health Protection Branch. It is involved in programs aimed at protecting the public from health hazards in foods, drugs, cosmetics and so on.

If you have a problem or inquiry, write or phone:

The Department of Consumer Affairs (Provincial)

or

The Consumer and Corporate Affairs Department (Federal).

Both departments extend mutual cooperation and will see that your request or problem is forwarded to the correct location if you have misdirected it.

THE DIRECT SALES CANCELLATION ACT

A buyer may cancel a sales contract between himself and a door-to-door salesman by giving a notice of cancellation:

- (1) within four days of receiving the sales contract, whether it is received by personal delivery or by mail;
- (2) within one year of receiving the contract if:
 - (a) all the goods or services are not supplied within 120 days of signing the contract and if no dates for delivery or performance are stated in the contract,
 - (b) the seller or salesman was not licensed when the sale was solicited, negotiated and concluded.

A notice of cancellation is sufficient to withdraw or terminate the sales contract. It should be mailed or personally delivered to the seller or person named in the contract, or if no address is shown in the contract, to any salesman or any known address of the seller. If the above are all unknown, notice of cancellation should be forwarded, with a full explanation, to the Director, Licensing of Trades and Businesses Branch, Department of Consumer Affairs, Government of Alberta.

Student Financial Assistance

THERE ARE SEVERAL different kinds of assistance available to students, which are described below.

- (1) Scholarship—a cash award based on competitive academic standing
- (2) Prize —a small cash award for some specific achievement
- (3) Bursary —an award to a person in financial need for a certain academic standing
- (4) Grant —money paid to a student who has a certain academic standing and who is in financial need
- (5) Loan —an amount of money provided to a student in need, to be paid back to the lender.

If you are a resident of Alberta, want to continue with your education, and lack the funds to do so, you may be eligible for one or more of the above. Financial assistance is available to students attending universities, colleges, technical and vocational institutes, and occasionally funds are available to adult high school students, part-time students, apprentices, and those attending private schools.

There is an informative booklet that covers the different loans, bursaries and scholarships available, and it is offered to students entering their first year at a post-secondary institution. It is called *Financial Awards for Alberta Students* and is published by the Department of Advanced Education.

Information about financial awards should be available from the institution you are interested in attending. If not, try writing to:

Students' Finance Board
J. J. Bowlen Building
620 - 7th Avenue S.W.
Calgary, Alberta
T2P 0Y8

Students' Finance Board
Devonian Building
11160 Jasper Avenue
Edmonton, Alberta
T5K 0L1

The Ombudsman

BY A 1967 ACT, a Commissioner of the Alberta Legislature was appointed. This is the Ombudsman, who investigates administrative decisions and acts of officials in the Provincial Government and its agencies. The Ombudsman investigates complaints made by persons, or matters he considers necessary.

Complaints must be in writing. An investigation is carried out privately and the complainant is informed of the results. If remedial action is necessary, the Ombudsman informs the department concerned, the Lieutenant Governor in Council, or the Legislature. All cases are reported annually to the Legislature.

The Ombudsman handles only matters concerning the Provincial Government; he is not authorized to deal with matters concerning private business, municipal matters or problems of a personal nature.

